

## REMARKS

Applicants respectfully submit that the Examiner's rejections of the pending claims under 35 U.S.C. §§ 102 and/or 103 are misplaced. Applicants herein respond to those rejections and highlight the differences between the claimed invention and the cited references. Specifically, applicants have amended Claims 22-41 and added new Claims 42-48 to more clearly define the invention. In addition, applicant's have cancelled claims 28-29, 34-35 and 38-41. Claims 22-27, 30-33, 36-37, and 42-48 are therefore now pending in this application.

Initially, applicants would like to draw the Examiner's attention to their novel idea for a continuous real-time building control and information monitoring system comprising a master control network, satellite network, and an RF communication system, the system capable of providing a wireless communication interface with remotely-located networks and detection nodes/modules, where the detected data is communicated between networks via the RF communication system. Importantly, the system of the claimed invention provides a significant improvement over prior art systems for at least two reasons. First, the claimed system allows for end user control of any of the data gathering or detecting nodes or modules. Previous systems could not do this. Second, the claimed system is configured such that it requires only a single master network to wirelessly control and integrate a plurality of remotely located satellite networks. Prior systems required a recurring or repeated master system at each remote location. Consequently, applicants are unaware of anything like the claimed system in the prior art, including the cited references. Applicants therefore respectfully submit that claims 22-27, 30-33, 36-37 and 42-48 are in condition for allowance.

We turn next to the Examiner's specific rejections of Claims 22-41. With respect to the

1 rejection of Claims 28-29, 34-35, and 38-41, applicants submit that these claims have been canceled  
2 and therefore request that these rejections be withdrawn.

3           Regarding the rejection of Claims 22-23 under 35 U.S.C. § 102(e) as being anticipated by  
4 Salazar et al. U.S. Patent No. 5,802,467 (Salazar), it is black letter law that to be anticipatory, a prior  
5 art reference must disclose each and every element of the claim or claims at issue -- Salazar falls short  
6 of this requirement. Briefly, Salazar does not teach or suggest an integrated building control and  
7 information system as claimed. Rather, Salazar merely discloses a system whereby a user may  
8 communicate with conventional hardwired systems (e.g., intercom, alarm, air conditioning, home  
9 entertainment, etc.) for access and/or control thereof. For this, Salazar discloses a system much like a  
10 standard cordless telephone (i.e., with a handset and basestation, as shown in and described with  
11 respect to Figure 1A). Accordingly, a user may communicate with the conventional hardwired systems  
12 using either the basestation or the cordless handset. Such a system, however, simply does not teach the  
13 claimed invention.

14           Specifically, the system disclosed in Salazar simply does not teach a continuous real-time  
15 building control and information monitoring system comprising a master control network including a first  
16 radio frequency (RF) device for providing a wireless communication interface with at least one  
17 remotely-located satellite network that comprises a second RF device for providing a wireless  
18 communication interface with the master control network and a plurality of nodes/modules for detecting  
19 information at the remote or satellite location, where the satellite network receives data from and  
20 transmits data to the master control network via a radio frequency communication system, and allows  
21 for end user control of the information detecting nodes/modules. Applicants again submit that Salazar

1 teaches nothing more than a wireless communications network for transferring data or voice information  
2 to remote accessories. In other words, Salazar merely teaches a highly intelligent remote control  
3 system dependant on one central user interface, while the claimed invention relates to an integrated  
4 system comprising subsystems and remote networks that function independently of its primary, master  
5 control network to allow users at each subsystem and remote network to dictate its control. Nowhere  
6 in Salazar is such a system disclosed or even suggested. Thus, applicants respectfully submit that  
7 Salazar does not disclose each and every element of claims 22-23, and the rejection under §102 should  
8 be reconsidered and withdrawn. Similarly, applicants submit that Salazar does not disclose each and  
9 every element of new claims 42-48, which are believed to be in condition for allowance.

10           Turning next to the rejection of Claims 22-25 under 35 U.S.C. § 102(e) as being anticipated by  
11 Russ et al. U.S. Patent No. 6,061,604 (Russ), again it is black letter law that to be anticipatory, a prior  
12 art reference must disclose each and every element of the claim or claims at issue -- Russ, like Salazar,  
13 falls short of this requirement. Briefly, Russ too fails to teach or suggest an integrated building control  
14 and information system as claimed. Rather, Russ just like Salazar discloses a system whereby a user  
15 may communicate with conventional hardwired systems (e.g., lights, security, HVAC, water heater,  
16 etc.) for monitoring and/or controlling thereof. Here too, however, a user may only communicate with  
17 the conventional hardwired systems. This does not teach the claimed invention. That is, the system  
18 disclosed in Russ simply does not provide a continuous real-time building control and information  
19 monitoring system comprising a master control network including a first radio frequency (RF) device for  
20 providing a wireless communication interface with at least one remotely-located satellite network that  
21 comprises a second RF device for providing a wireless communication interface with the master control

1 network and a plurality of nodes/modules for detecting information at the remote or satellite location,  
2 where the satellite network receives data from and transmits data to the master control network via a  
3 radio frequency communication system, and allows for end user control of the information detecting  
4 nodes/modules. Rather, Russ teaches a system dependant on a single central user interface, while on  
5 the other hand the claimed invention provides an integrated system comprising subsystems and remote  
6 networks that function independently of its primary, master control network to allow users at each  
7 subsystem and remote network to dictate their control. Russ simply does not teach or suggest such a  
8 system. Thus, applicants respectfully submit that Russ does not disclose each and every element of  
9 claims 22-25, and the rejection under §102 should be reconsidered and withdrawn. Similarly,  
10 applicants submit that Russ does not disclose each and every element of new claims 42-48, which are  
11 believed to be in condition for allowance.

12 Referring finally to the rejection of Claims 26-27 and 30-33 under 35 U.S.C. § 103 as being  
13 unpatentable over Russ in view of Ehlers et al. U.S. Patent No. 5,924,486 (Ehlers), and the rejection of  
14 Claims 36-37 under 35 U.S.C. § 103 as being unpatentable over Salazar in view of Ehlers, applicant  
15 respectfully disagrees. While admitting that neither Salazar nor Russ disclose incorporation of a vendor  
16 tracking system, in the Examiner's opinion, it would have been obvious for one of skill in the art to  
17 modify the systems of either Russ or Salazar to include the system of Ehlers. Applicants submit that  
18 such a modification is improper. Moreover, applicants submit that even if such a combination were  
19 proper, it would still not teach the claimed invention.

20 First, applicants submit that Ehlers does not disclose the claimed "vendor tracking system". The  
21 Examiner's citation to col. 3, lines 40-52 of Ehlers is misplaced, as this does not disclose the vendor

1 tracking system of the present invention. Rather, the Ehlers' system merely monitors and report the  
2 energy usage to the supplier (i.e., the utility company). Unlike the claimed vendor tracking system,  
3 Ehlers' system does not allow the vendor (or end user) to provide any control -- according to Ehlers,  
4 the supplier merely receives information. This is nothing like the vendor tracking system of the  
5 invention.

6 Second, the applicant respectfully points out that, standing on their own, these references  
7 provide no justification for the combinations asserted by the Examiner.

8 "Obviousness cannot be established by combining the teachings of the prior art to  
9 produce the claimed invention, absent some teaching or suggestion supporting the  
10 combination. Under section 103, teachings of references can be combined only if there  
11 is some suggestion or incentive to do so." *ACS Hospital Systems Inc. v. Montefiore*  
12 *Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984) (emphasis in  
13 original).

14 Nothing in Ehlers, Salazar, or Russ provides any motivation, suggestion or incentive for the  
15 combinations asserted by the Examiner. Therefore, the obviousness rejection could only be the result  
16 of a hindsight view with the benefit of the applicants' own specification. However,

17 "To draw on hindsight knowledge of the patented invention, when the prior art does not  
18 contain or suggest that knowledge, is to use the invention as a template for its own  
19 reconstruction -- an illogical and inappropriate process by which to determine  
20 patentability. The invention must be viewed not after the blueprint has been drawn by  
21 the inventor, but as it would have been perceived in the state of the art that existed at  
22 the time the invention was made." (Citations omitted) *Sesonics v. Aerasonic Corp.*, 38  
23 U.S.P.Q. 2d. 1551, 1554 (1996).

24 In addition, on reconsideration the Examiner will undoubtedly recognize that such a position is merely  
25 an "obvious to try" argument. The disclosures of both Salazar, Russ and Ehlers do not reveal any  
26 functional or design choices which include those of the applicants' claimed invention. Accordingly, it is

1 not obvious to combine either Russ or Salazar with Ehlers to arrive at applicants' invention. At best it  
2 might have been obvious to try such a combination. Of course, "obvious to try" is not the standard for  
3 obviousness under 35 U.S.C. §103. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 231 USPQ 81,  
4 91 (Fed. Cir. 1986).

5 Under the circumstances, it is respectfully submitted that the Examiner has succumbed to the  
6 "strong temptation to rely on hindsight." *Orthopedic Equipment Co. v. United States*, 702 F.2d  
7 1005, 1012, 217 USPQ 193, 199 (Fed. Cir. 1983):

8 "It is wrong to use the patent in suit as a guide through the maze of prior art references,  
9 combining the right references in the right way so as to achieve the result of the claim in  
10 suit. Monday morning quarter backing is quite improper when resolving the question of  
11 non-obviousness in a court of law." *Id.*

12 Applicants submit that the only "motivation" for the Examiner's combination of the references is  
13 provided by the teachings of their own disclosure. No such motivation is provided by the references  
14 themselves. Thus, applicants respectfully submit that Claims 26-27, 30-33 and 36-37 are not rendered  
15 obvious by the cited references, and the rejection under §103 should be reconsidered and withdrawn.  
16 Similarly, applicants submit that the cited references, either alone or in combination, do not disclose or  
17 suggest the invention as claimed in new Claims 42-48, which are believed to be in condition for  
18 allowance.

20

21

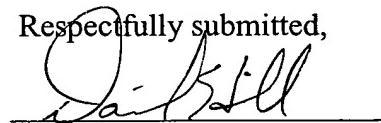
22

23

1                           **CONCLUSION**

2                           In view of the foregoing, applicants respectfully submit that the present invention represents a  
3                           patentable contribution to the art and the claims 22-27, 30-33, 36-37 and 42-48 are now in condition  
4                           for allowance. Early and favorable action is accordingly solicited.

Respectfully submitted,



David M. Hill  
Reg. No. 46,170  
WARD & OLIVO  
708 Third Avenue  
New York, New York 10017  
(212) 697-6262

Date: February 26, 2003

1      **IN THE CLAIMS**

2  
3      Please cancel claims 28-29, 34-35 and 38-41.

4  
5      Please amend the claims as follows:

6  
7      **{MARKED-UP VERSION OF THE AMENDED CLAIMS}**

8    --22. (AMENDED) An integrated building control and information system, wherein said system  
9    comprises:

10      a master control network including a first radio frequency (RF) device for providing a  
11      wireless communication interface with at least one remotely-located satellite  
12      network;

13      at least one said satellite network [subsystem] comprising a second RF device for  
14      providing a wireless communication interface with said master control network  
15      and a plurality of [utility nodes] nodes/modules for detecting information; and  
16      a [radio frequency (RF)] communication system including said first and second RF  
17      devices;

18      wherein said satellite network [subsystem] receives data from and transmits data to said master  
19      control network via said RF communication system, and wherein said system allows for end user  
20      control of said [utility nodes] nodes/modules.

1       23. (AMENDED)     A system according to claim 22, wherein said master control network further  
2                          comprises:

3                          a user interface [communication device]; and

4                          a central processing unit; [and

5                          an RF master device;]

6                          wherein said central processing unit transmits information from said first [master] RF device to  
7                          said user interface [communication device], wherein said [communication device,] central processing  
8                          unit is coupled to[, and] said first RF [master] device [are electronically connected within said master  
9                          control network], and wherein said first RF [master] device receives said information from said second  
10                         RF device [subsystem].

11

12        25. (AMENDED)     A system according to claim 23, wherein said [subsystem] satellite network  
13                          further comprises:

14                          [an RF satellite device; and]

15                          at least one utility node;

16                          wherein said utility node detects utility information and transmits said utility information to said  
17                          satellite device.

18

19        26. (AMENDED)     A system according to claim 25, wherein said [subsystem] satellite network  
20                          further comprises a vendor tracking system.

1       30. (AMENDED)     A system according to claim 26, wherein said vendor tracking system further  
2                          comprises:

3                          at least one vendor tracking module for collecting vendor tracking data, processing said  
4                          data and transmitting said [vendor tracking] data through [said] data [converter]  
5                          conversion circuitry to said second RF [satellite] device for transmission to said  
6                          master control network.

7

8       31. (AMENDED)     A system according to claim 26, wherein said [system] master control network  
9                          further comprises:

10                         at least one utility node; and

11                         a utility monitor;

12                         wherein said utility nodes detect utility information and transmit said information to said utility  
13                         monitor and said central processing unit.

14

15       32. (AMENDED)     A system according to claim 26, wherein said [subsystem] satellite network  
16                          further comprises:

17                         [said satellite device; and]

18                         at least one utility node;

19                         wherein said utility node detects utility information and transmits said information to said second  
20                         RF [satellite] device; and wherein said second RF [satellite] device transmits said information to said  
21                         first RF [master] device.

1       36. (AMENDED)     A system according to claim 22, wherein each said [subsystem] second RF  
2       device comprises:

3                         [at least one vendor tracking module;]  
4                         a data conversion circuit for converting said data received from at least one said  
5                         node/module for transmission via said communication system [converter; and  
6                         an RF satellite device];  
7                         wherein at least one of said nodes/modules is a [each said] vendor tracking module for  
8                         collecting [collects] vendor tracking data and [transmits] transmitting said vendor tracking data through  
9                         said data [converter to] conversion circuit in said second RF [satellite] device for transmission to said  
10                        master control network.

11

12       37. (AMENDED)     A system according to claim 22, wherein said master control network further  
13       comprises:

14                         [a communication device; a data converter; an RF master device;]  
15                         a user interface for providing a user with access and control of said system;  
16                         a central processing unit; and  
17                         at least one vendor tracking system module;  
18                         wherein said central processing unit [may receive] is capable of receiving information from each  
19                         said vendor tracking system module, and wherein said first RF [master] device receives information  
20                         from said [subsystem] second RF device and transmits said information through [said] a data converter  
21                         to said central processing unit for display via said user interface [communication device].--